

REMARKS

Reconsideration and allowance of this application are respectfully requested in light of the above amendments and the following remarks.

The office action asserts the following rejections:

(1) claims 31-35 under 35 USC 112, first paragraph, as not complying with the written description requirement; and

(2) claims 31-35 under 35 USC 102 as anticipated by Mahany et al.

Regarding rejection (1), the office action states that Applicant must highlight where the language "without receiving any indication of transmission rate based on the received quality" appears within the present specification.

In response, Applicants note page 24, line 25 et seq., which states, in connection with the second embodiment, that the use of the transmission power control bit for channel estimation (i.e., the TPC bit indicates the "received quality measured" in the claims) serves to reduce the amount of information to be sent from the other end of communication "without the need for special control information about transmission rate control." Further support exists in all of the drawings and embodiments described in the specification wherein the only control information provided from the communication terminal to the base station is "reception

quality." See, for example, Fig. 8 which shows the control information from the terminal apparatus to the base station apparatus as "control information (reception quality)."

Accordingly, it is submitted that the 35 USC 112, first paragraph, rejection should be withdrawn,

Regarding rejection (2), as noted previously, Mahany merely discloses receipt, by the initiating unit, of a data rate selection signal sent from the remote unit.

In contrast, the present claims recite reception circuitry (which is separate from the communication terminal) that receives information of a reception quality that is measured (1) at the communication terminal and (2) this information of reception quality is received in the absence of any rate control information from the communication terminal specifying transmission rate based on the reception quality. Further, the claims recite that the transmission rate control circuitry is also separate from the communication terminal.

In contrast to the present claimed invention, Mahany discloses a system wherein a mobile station evaluates a received test pattern, makes a data rate selection based on this evaluation, and transmits its data rate selection decision to the base station.

This is opposite to the present claimed invention wherein reception circuitry, that is separate from the communication

terminal, receives information of a reception quality that is measured at the communication terminal, and this information of reception quality is received by the reception circuitry in the absence of any rate control information from the communication terminal specifying transmission rate based on the reception quality. Then, transmission rate control circuitry, that is also separate from the communication terminal, changes a transmission rate to the communication terminal based on the information of reception quality.

Stated another way, Mahany describes a mobile station that decides the data rate and a base station that receives a data rate selection decision signal from the communication terminal. Thus, in Mahany, the mobile station makes the measurement and decides the rate, and the base station does not determine or decide the rate but merely responds to the rate already selected by the second station.

This is the reverse of the present claimed invention, wherein the base station (or any apparatus on the other side of communication with the communication terminal) makes the data rate selection based on the measurement data from the mobile station and the mobile station never sends to the base station any rate control information specifying transmission rate based on the reception quality at the mobile station.

In other words, in the present claimed invention, the first terminal (communication terminal) measures the received quality, and the second apparatus (in communication with the first terminal) (1) receives the information of reception quality measured at the first terminal in the absence of any rate control information from the first terminal specifying transmission rate based on the reception quality and (2) changes the rate based thereon.

The office action does not expressly state that the anticipation rejection is based on inherency. Clarification of whether the rejection is based on inherency is requested if the present rejection is reasserted in a subsequent office action. It is submitted that Mahany's rate selection signal does not inherently include information of reception quality measured at the mobile station, for reasons stated in the Interview Summary under MPEP 713.04 filed April 4, 2003 and the Response filed June 20, 2003.

Moreover, it is noted that no obviousness rejection has been asserted. Applicants agree with the apparent position in the office action that no such rejection would be warranted because Mahany is silent on the feature of a communication terminal that sends the actual received quality measured at the communication terminal, and Mahany provides no hint, suggestion or motivation to change his scheme, in which the remote unit decides the data rate

based on measured channel quality and then sends a data rate selection signal to the base station, to a scheme like the present invention wherein the mobile unit would send the actual measurement data to enable the base station to decide the data rate based on the measurement data received from the mobile unit.

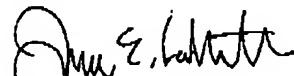
From the above and the arguments presented in the previous Responses, it is submitted Mahany fails to anticipate or render obvious the present claimed invention.

Accordingly, it is submitted that the 35 USC 102 rejection of claims 31-35 over Mahany should be withdrawn.

In light of the foregoing, it is submitted that this application is in condition for allowance, and a notice to that effect is respectfully solicited.

If any issues remain which may be best resolved through a telephone communication, the Examiner is requested to telephone the undersigned at the local Washington, D.C. telephone number listed below.

Respectfully submitted,



James E. Ledbetter
Registration No. 28,732

Date: June 24, 2004

JEL/att
ATTORNEY DOCKET NO. JEL 31056I
STEVENS, DAVIS, MILLER & MOSHER, L.L.P.
Suite 850
1615 L Street, N.W.
Washington, D.C. 20036-5622
Telephone: (202) 785-0100
Facsimile: (202) 408-5200